

REMARKS

Claims 1-12, 14-22, and 24-26 remain in the case. Claims 14 and 24 have been amended.

Claim 14 improperly depended from an incorrect preceding claim. Claim 14 has been amended to depend from claim 25. Claim 24 recited an improper preamble and has been modified to reflect a proper preamble.

The rejection of claim 1 under 35 U.S.C. 102(e) as being unpatentable over Le et. al. (6,856,868) is respectfully traversed.

Claim 1 recites a method for estimating the propensity of a vehicle to rollover. The lateral kinetic energy of the vehicle is determined in response to the longitudinal velocity and the vehicle side slip angle. A potentiality rollover index is then determined in response to the lateral kinetic energy and the lateral acceleration.

Le et. al. recites a method of operating a safety system of an automobile by comparing a lateral acceleration and a lateral characteristic to a threshold that is a function of the lateral acceleration and the lateral characteristic, and thereafter controlling a safety system. Le fails to teach a lateral kinetic energy determined from a side slip angle and a longitudinal velocity as recited in claim 1. The office action relies on col. 2-3 line 64-2 to identify the use of the side slip angle. However, Le fails to teach or even suggest that the side slip angle is used to determine the lateral kinetic energy. The office action further relies col. 4 lines 36-55 in an attempt to suggest that the lateral kinetic energy is determined in a same manner as that claimed in the present invention. However, this reference fails to teach or even suggest how the lateral kinetic energy is determined.

The office action relies on col. 2 lines 33-44, col. 3 lines 50-59, and col. 4 lines 36-55 and lines 56-64 to suggest that a determination of a rollover potentiality index is made in response to the lateral kinetic energy and lateral acceleration. In col. 2 lines 33-44, the lateral kinetic energy and lateral acceleration are used to determine a trigger time for deploying a rollover occupancy protection system and not for determining the rollover potentiality index as claimed in the present invention.

In col. 3, lines 50-59, the lateral acceleration is compared to such characteristics such as lateral energy density and lateral energy. However, Le fails to define either of the terms lateral energy density and lateral energy, and as a result, is ambiguous.

In col. 4, lines 36-55, a threshold is determined in whether the lateral kinetic energy is greater than the lateral kinetic energy/momentum related-lateral acceleration threshold (derived from combination of lateral acceleration, energy, energy density, velocity, and momentum) for activating a safing function. This reference fails to teach or suggest a potentiality index determined in response to lateral kinetic energy and lateral acceleration.

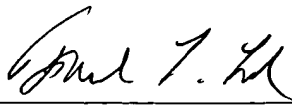
In col. 4, lines 56-64, Le suggests the use of a lateral acceleration and a lateral condition as a first indication of a roll condition and the roll rate angle as a second indication of the roll rate. The present invention does not utilize the roll rate for determining the rollover potentiality index.

Since Le fails to teach the various elements of claim 1 used in cooperation for determining the rollover potentiality index, the rejection of claim 1 should be withdrawn.

In addition to the above arguments for patentability, applicant has submitted herewith a declaration under 37CFR 1.131 and supporting documentation showing that the patent application identified above was conceived and reduced to practice prior to the effective date, October 24, 2003, of the Le et. al. In submitting the declaration under 37 CFR 1.131, applicant negates the rejection under 35 U.S.C. 102(e) as being unpatentable over Le et. al. (6,856,868). The rejection of claim 1 should be withdrawn.

In view of the foregoing amendment and remarks, all pending claims are in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,



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